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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/936,871	09/12/2001	Uwe Hoffmann	SCH-12597	9469
40854	7590	10/06/2004	EXAMINER	
RANKIN, HILL, PORTER & CLARK LLP 4080 ERIE STREET WILLOUGHBY, OH 44094-7836			HANDY, DWAYNE K	
		ART UNIT	PAPER NUMBER	
		1743		

DATE MAILED: 10/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/936,871	HOFFMANN, UWE
	Examiner Dwayne K Handy	Art Unit 1743

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 19 July 2004.
 2a) This action is **FINAL**. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 13-17 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 13-17 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date: _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 13 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Beckwith (4,947,903). Beckwith teaches a material recovery apparatus for recovering loose material. The apparatus is best shown in Figure 1 and described in columns 2 and 3. The apparatus includes a suction hose (130) connected to a collection container (52), a vacuum motor (64), and a closing door (80) on the bottom of the container. The closing door (80) is attached to the lower opening (56) of the container (52) through a hinge (82) that allows the door to open. The door (80) has a rod that extends from it and has an adjustable counterweight (94) (column 3, lines 15-28). The door opens to a bin (20) through which elements that are picked up by the hose fall.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
 2. Ascertaining the differences between the prior art and the claims at issue.
 3. Resolving the level of ordinary skill in the pertinent art.
 4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
4. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Beckwith (4,947,903) in view of Hutchins (3,824,745). Beckwith teaches every element of claim 15 except for the use of a centrifugal blower. Hutchins shows a suction system for an abrading tool (Figures 1 and 4). The suction system is used to draw abraded particles from a work surface to a collection location (Abstract). The suction system includes a centrifugal impeller (49) contained within an annular compartment (54). The impeller blows air in outward radial direction through centrifugal action (column 4, lines 3-15). The air then passes through a tube that is connected to the shroud and to a bag for storage (col. 4, lines 33-42). It would have been obvious to one of ordinary skill in the art to combine the centrifugal blower from Hutchins with the vacuum device of Beckwith. Beckwith already teaches a blower unit inside a cylindrical container. One would add the centrifugal blower to drive particles to the side of the container as in Hutchins. This would allow for quicker recovery of the particles since they would be collected after impacting the wall.

5. Claim 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beckwith (4,947,903) in view of Moore, Jr. et al. (3,973,935). Beckwith teaches every element of claims 16 and 17 except for a filter mounted between the blower and the collection container. Beckwith does teach the use of a screen (66) that covers the motor to prevent clogging however. Moore teaches a dust filtration system for a vacuum cleaning device. The device contains a dual filtration system that has a number of filter bags of sufficient porosity to prevent micron-sized particles from damaging the vacuum pump of the apparatus (column 7, lines 39-68). It would have been obvious to one of ordinary skill in the art at the time to combine the filters of Moore with the system of Beckwith. One would add the filters from Moore to protect the blower of Beckwith from particle damage. It would also have been obvious to provide the filter as a cartridge. One would provide the filter in cartridge form to allow for an easier changing of the filter element as needed or to provide a variety of filter sizes for different applications.

Response to Arguments

6. Applicant's arguments filed 7/19/2004 have been fully considered but they are not persuasive. In traversing the rejection made by the Examiner involving the Beckwith reference, applicant has argued that the instant claims define over the prior art since the device of Beckwith requires additional elements for closing the bottom flap (page 5, submitted arguments). The Examiner respectfully disagrees. The Examiner fails to see the difference between the device of Beckwith and the instant claims and believes

that applicant is arguing beyond the scope of the claims as currently written. As currently written, claim 13 merely requires that "the closure flap (4) be in a fully closed position when a vacuum is produced in the reservoir, and pivots, when the vacuum drops off, into an open position under a weight of one or more closures." This is, the Examiner believes, what Beckwith teaches. From the Abstract: "When the motor is energized movement is imparted to the actuating member to close the bottom door and create a vacuum in the storage compartment for drawing material to be recovered into the compartment through a suction hose". From this passage, it appears that while an additional driving element (actuator) is required to close the lower door, lower flap or door is indeed closed during operation of the device. This is what is required in claim 13. Therefore, the Examiner believes that Beckwith anticipates claim 13.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dwayne K Handy whose telephone number is (571)-272-1259. The examiner can normally be reached on M-F 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill Warden can be reached on (571)-272-1267. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DKH
October 1, 2004


Jill Warden
Supervisory Patent Examiner
Technology Center 1700